

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
EDGAR WALLACE dba RICHARDS
APARTMENTS,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 989

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, appeal of the \$50.00 civil penalty for an alleged opacity violation of Respondent's Section 9.03 of Regulation 1, came on for hearing before the Pollution Control Hearings Board (Chris Smith, Chairman and Art Brown, Member) convened at the Seattle facility of the State Board of Industrial Insurance Appeals on June 24, 1976. William A. Harrison, Hearing Examiner, presided. Respondent elected a formal hearing

Appellant, Edgar Wallace, appeared with his employee,

1 Jerry Wallace. Respondent appeared by and through its attorney,
2 Keith D. McGoffin. Olympia Court Reporter Juana Tingdale
3 recorded the proceedings.

4 Witnesses were sworn and testified. Exhibits were
5 admitted. From testimony heard and exhibits examined, the
6 Pollution Control Hearings Board makes these

7 FINDINGS OF FACT

8 I.

9 Pursuant to RCW 43.21B.260 Respondent has filed its
10 Regulation 1 with the Pollution Control Hearings Board and
11 official notice thereof is hereby taken. The Appellant is
12 alleged to have violated Section 9.03(b) of Regulation 1
13 which provides, inter alia, as follows:

14 "After July 1, 1975 it shall be unlawful
15 for any person to cause or allow the emission
16 of any air contaminant for a period or periods
aggregating more than three (3) minutes in any
one hour, which is:

- 17 (1) Darker in shade than that designated as
18 No. 1 (20% density) on the Ringelmann Chart,
as published by the United States Bureau of
Mines; or
19 (2) Of such opacity as to obscure an observ-
20 er's view to a degree equal to or greater than
does stroke described in subsection 9.03(b)(1)
..."

21 II.

22 Appellant is the owner of the Richards Apartments,
23 123 Bellevue Avenue East, Seattle, Washington, and was so at
24 all times relevant to this appeal.

25 III.

26 On January 16, 1976 Appellant caused or allowed an
27 emission of an air contaminant of eight (8) minutes duration

FINAL FINDINGS OF FACT,

S F No 9928-A CONCLUSIONS OF LAW

AND ORDER - 2

1 with an opacity equal to No. 5 on the Ringelmann Chart. Such
2 emission emanated from a stack on the Richards Apartments.

3 IV.

4 While such facts do not pertain to the issue of
5 whether Appellant committed this violation we find as fact
6 that the Appellant has been assessed two (2) prior civil
7 penalties of Fifty Dollars (\$50.00) each for violation of
8 the same regulation (Section 9.03) as now alleged. We take
9 notice that no appeals were filed. We further find that the
10 Appellant, on or about January 16, 1976, entered into a
11 lease to convert from the existing oil furnace at the Richards
12 Apartments to a new gas furnace. This was done in hopes of
3 eliminating any air pollution problem.

14 V.

15 Any Conclusion of Law hereinafter recited which
16 should be deemed a Finding of Fact is hereby adopted as such.

17 CONCLUSIONS OF LAW

18 I.

19 Appellant has violated Section 9.03 of Respondent's
20 Regulation 1

21 II.

22 Any Finding of Fact which should be deemed a Conclusion
23 of Law is hereby adopted as such

24 ORDER

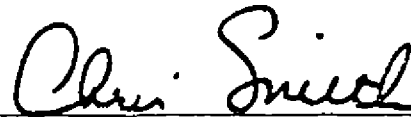
25 The violation and civil penalty imposed by Notice and
26 Order of Civil Penalty No 2673 are each hereby affirmed; except,
27 that \$25.00 of the \$50.00 civil penalty is suspended for six months

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW,

1 provided that no further violations occur within that time from
2 this source

3 DATED this 16th day of June, 1976

4 POLLUTION CONTROL HEARINGS BOARD

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9 CHRIS SMITH
Chairman

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13 ART BROWN
14 Member

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW,
AND ORDER - 4